

REMARKS

In the Decision on Appeal mailed February 16, 2006, the BPAI maintained the rejection of claims 1, 8, 16, 18 and 19 under 35 U.S.C. §102(b) as being anticipated by OMEGA[®]. The BPAI also maintained the rejection of claims 1, 3, and 6 under 35 U.S.C. §102(b) as being anticipated by Kossnar (USP 6,022,159). Claims 1, 3, 5, 6, 8 and 9 were rejected under 35 U.S.C. §102(b) as being anticipated by Kirk (USP 3,564,668). The BPAI maintained the rejection of claims 1, 3, 5, 6 and 8 under 35 U.S.C. §102(b) as being anticipated by Aaronson (USP 4,244,660). The BPAI further maintained the rejection of claim 17 under 35 U.S.C. §103(a) as being obvious over OMEGA[®] in view of Peterson (USP 1,603,713). Claim 20 was newly rejected under 35 U.S.C. §102(b) as being anticipated by Kossnar.

The rejection of claims 2, 4, 7, and 10-15 was withdrawn and those claims were indicated as containing allowable subject matter. Such indication is appreciated.

Applicant has elected to cancel claim 1 and incorporate the subject matter thereof into the allowable subject matter of claim 2. Applicant believes that independent claim 2, and the claims dependent therefrom, are in condition for allowance, as they contain allowable subject matter, as indicated by the BPAI.

Applicant has amended claim 16 to call for, in part, a dual temperature indicator stick including first and second means for indicating temperatures and means for retaining the first means to the second means in a side-by-side relationship to form an indicator stick assembly capable of indicating at least two temperatures. Claim 16 further calls for the means for retaining the first means to the second means to fixedly connect the first and second means to form a one-piece dual temperature indicator stick apparatus. Applicant believes that OMEGA[®] fails to teach or disclose a means for retaining the first means to the second means that fixedly connects the first and second means to form a one-piece dual temperature indicator stick apparatus. That is, OMEGA[®] does not teach or disclose that the individual temperature-sensitive crayons therein are fixedly connected via a “connector” to form a one-piece dual temperature indicator stick apparatus. Rather, the individual temperature-sensitive crayons of OMEGA[®] are removable from the “connector” disclosed therein and are clearly not fixedly connected to one another, nor does the combination of crayons form a one-piece dual temperature indicator stick apparatus. Therefore, claim 16 and the claims dependent therefrom are patentably distinct over OMEGA[®].

In addition to the above identified amendments, claims 3, 8 and 9 have been amended to reflect their dependency from claim 2. Furthermore, claims 25-29 have been newly added and are believed to define over the art of record.

Therefore, in light of at least the foregoing, Applicant respectfully believes that the present application is in condition for allowance. As a result, Applicant respectfully requests timely issuance of a Notice of Allowance for claims 2-20 and 25-29.

Applicant appreciates the Examiner's consideration of these Amendments and Remarks and cordially invites the Examiner to call the undersigned, should the Examiner consider any matters unresolved.

Respectfully submitted,

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¹The Commissioner is hereby authorized to charge any additional fees which may be required regarding this application under 37 C.F.R. §§ 1.16-1.17, or credit any overpayment, to Deposit Account No. 50-2623. Should no proper payment be enclosed herewith, as by credit card authorization being in the wrong amount, unsigned, post-dated, otherwise improper or informal or even entirely missing, the Commissioner is authorized to charge the unpaid amount to Deposit Account No. 50-2623. If any extensions of time are needed for timely acceptance of papers submitted herewith, Applicant hereby petitions for such extensions under 37 C.F.R. §1.136 and authorizes payment of any such extensions fees to Deposit Account No. 50-2623. Please consider this a general authorization to charge any fee that is due in this case, if not otherwise timely paid, to Deposit Account No. 50-2623.